



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/416,675 10/12/99 ROBINSON

E C013-1002

TM02/0212

WILLIAM G LANE  
18400 VON KARMAN AVENUE  
SUITE 500  
IRVINE CA 92612

EXAMINER

LE, U

ART UNIT

PAPER NUMBER

2171

DATE MAILED:

02/12/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/416,675

Applicant(s)

Robinson

Examiner

Uyen Le

Group Art Unit

2171



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Oct 12, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

## **DETAILED ACTION**

### ***Drawings***

1. The drawing is objected to because all block elements must be functionally labeled for ready identification (Rule 37 CFR 1.84 (o)). Note the single drawing representing a flow diagram submitted in this application contains labels which do not allow ready identification of its elements.

Correction is required

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because claim 1, last two lines are not understood. Does applicant intend to mean --the computer making a file-by-file transfer of the file changes to the ABS unit if the computer finds enough space available on the ABS unit-- ? Claim 20 recites a system comprising a number of steps. Note a system does not comprise steps. Does applicant intent to mean -- a method--? Claim 20 is further rejected because claim 20, lines 2, 3 "the port" lacks antecedent basis.

The art rejection of claims 1-20 is applied as best understood in light of the rejection under 35 U.S.C. 112, second paragraph discussed above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al (US 5,758,067) provided by the applicant, in view of Harari et al (US 5,887,145).

Regarding claim 1, Makinen discloses a method of automatically backing up data from a computer (see the abstract). Although Makinen does not specifically show that the automatic backup system (ABS) is connected to the PCMCIA port of the computer, it is well known in the art as shown by Harari to connect peripheral cards to the PCMCIA port on a computer for backup purposes (see column 3, lines 20-23, column 9, lines 18-30). Therefore, it would have been obvious to one of ordinary skill in the art to include connecting a ABS unit to the PCMCIA port while implementing the method taught by Makinen in order to use a standard port of the computer to attach peripheral cards for automatic backup of data as taught by Makinen. Furthermore, it would have been obvious to one of ordinary skill in the art to include all the claimed operations of scanning for devices connected to the PCMCIA port, recognizing the ABS unit inserted to the PCMCIA port, launching the automatic backup procedure, scanning all source files and comparing to the files on the ABS for changes, determining space required for backing up data and space available on the ABS, making a file-by-file transfer of the changes to the ABS unit if space is available on the ABS since the computer has to

recognize the presence of the ABS before launching the automatic backup and only files that have changed need be backed up again on the ABS, provided space is available on the ABS.

Regarding claim 2, official notice is taken that it is well known in the art for a computer to report the status of an operation. Therefore, it would have been obvious to one of ordinary skill in the art to make the computer report status of backup at the end of the file-by-file transfer to the ABS in order to allow users to verify the status of the files being backed up.

Regarding claims 3, 4, although Makinen does not specifically show that the computer writes the status of the file-by-file transfer to the ABS unit at the end of backup to the source drives and reviews the status of the file-by-file transfer when it scans all files on the source drives and compares the files on the ABS unit for data and time changes, it would have been obvious to one of ordinary skill in the art to do so in order to keep track of which files have been last backed up at the ABS unit.

Regarding claim 5, it would have been obvious to one of ordinary skill in the art to make the computer terminate the backup after completion of writing the status of the file-by-file transfer to the ABS in order to complete the operation of backup and turn off the ABS unit.

Regarding claim 6, it would have been obvious to one of ordinary skill in the art to make the computer offer an operator a manual option to launch backup prior to the computer scanning all files on the source drive in order to allow the operator to control the operation of backup for specific files.

Regarding claim 7, it would have been obvious to one of ordinary skill in the art to make the computer automatically commence the backup procedure once the operator manually selects backup in order to automatically backing up the files selected by the operator.

Regarding claim 8, Maniken teaches an automatic backup system but fails to specifically show that the computer scans its registry for an automatic backup launch file when the computer recognizes the ABS unit connected to its PCMCIA port. However, it is well known in the art as shown by Harari to connect peripherals to the PCMCIA port of a computer to backup data as discussed in claim 1. Therefore, it would have been obvious to one of ordinary skill in the art to include scanning the computer registry for an automatic backup launch file upon recognition of the presence of an ABS unit in order to automatically launch the backup operation without operator intervention.

Regarding claim 9, since a password identifies who can access data, it would have been obvious to one of ordinary skill in the art to make the computer request a password after connection of the ABS to the computer and to include all the claimed operations in order to prevent unauthorized operators to access and copy data from the computer or the ABS unit.

Regarding claim 10, since a correct password is needed for the ABS unit to operate, it would have been obvious to one of ordinary skill in the art to make the computer request a password, translate the password from its registry, transfer the password to the ABS unit connected to its PCMCIA port in order to authenticate users.

Regarding claim 11, since data should be protected from unauthorized access, it would have been obvious to one of ordinary skill in the art to include all the claimed operations while implementing the method of Maniken and Harari in order to prevent unauthorized access to data.

Regarding claim 12, it would have been obvious to one of ordinary skill in the art to include requesting the operator for a selection of options after the computer recognizes the ABS unit connected to its PCMCIA port and before launching the backup procedure in order to give more flexibility to the operators who desire specific features.

Claim 13 merely reads on the fact that any application has to operate according to its configuration. Therefore, it would have been obvious to one of ordinary skill in the art to make the computer scan its registry for options selections prior to launching the backup procedure in order for the operation to perform according to the desired options set by an operator.

Regarding claim 14, since the backup system is external to the computer as shown by Hariki, it would have been obvious to one of ordinary skill in the art to make the computer request removal of the ABS unit from its PCMCIA port once the operation is completed in order to disconnect the ABS unit from the computer.

Regarding claim 15, it would have been obvious to one of ordinary skill in the art to make the computer request insertion of the ABS unit to the computer PCMCIA port in order to perform the backup operation.

Claim 16 merely reads on the fact that the computer detects the absence of the ABS unit during backup operation and requests reconnection. it would have been

Art Unit: 2171

obvious to one of ordinary skill in the art to include the claimed operations in order to complete an ongoing backup process.

Claims 17, 18 merely read on the fact that enough space should be detected prior to launching a backup operation. Therefore, it would have been obvious to one of ordinary skill in the art to make the computer compares the space available on the ABS unit to the file changes and to replace the ABS which has insufficient space with one having enough space to backup the source drives in order to avoid wasting time on an incomplete operation due to insufficient space on the ABS unit.

Regarding claim 19, since enough space is necessary to backup changed data, it would have been obvious to one of ordinary skill in the art to make the computer shut down the backup procedure when it finds there is insufficient available space to complete the backup procedure in order to avoid wasting time on an incomplete backup due to insufficient space.

Regarding claim 20, Makinen discloses an automatic backup system (see the abstract). Although Makinen does not specifically show that the system performs all the claimed operations, it is well known in the art to connect a backup system to a computer as shown by Harari (see column 3, lines 20-23, column 9, lines 18-30). Therefore, it would have been obvious to one of ordinary skill in the art to include all the claimed operations of scanning and detecting a device connected to a port of the computer, identifying the automatic backup system, automatically launching a backup procedure while implementing the system of Makinen in order to backup file changes to a system connected to the computer through a port depending on the size of the backup data as



Art Unit: 2171

taught by Harari to avoid operator's intervention. Furthermore, since the backup system is inserted to a port of the computer, it would have been obvious to one of ordinary skill in the art to make the computer automatically close the backup procedure once the backup has been complete in order to disconnect the backup system from the computer system.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Webber et al (US 5,367,698) teach a network file migration system.

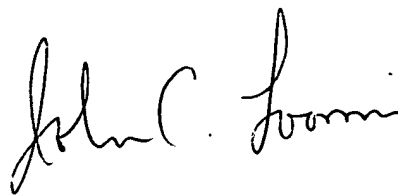
Schmidt et al (US 4,558,413) teach a software version management system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T Le whose telephone number is 703-305-4134. The examiner can normally be reached on M-T 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 305-9707. The fax phone numbers for the organization where this application or proceeding is assigned are 308-9051 for all communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-9000.

UL  
January 31, 2001



**JOHN C. LOOMIS  
PATENT EXAMINER  
GROUP 2300**